
Appeal Decision

Site visit made on 6 December 2016

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 January 2017

Appeal Ref: APP/L5810/W/16/3159213
59-61 High Street, Hampton Wick KT1 4DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Roger Kilby (Fleetwood Developments) against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/2381/FUL, is dated 10 June 2016.
 - The development proposed is provision of separate street access to residential upper floors with extension at rear for two additional residential units.
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Decision

1. The appeal is dismissed and planning permission for separate street access to residential upper floors with extension at rear for two additional residential units is refused.

Background and Main Issues

2. The appeal follows the failure of the Council to make a decision on a planning application in the prescribed period. I have, however, received a decision notice and officer report from the Council dated 4 October 2016. As a consequence, I consider the main issues to be firstly, whether the proposed development would preserve or enhance the character or appearance of the Hampton Wick Conservation Area; secondly, whether the proposed development would make adequate arrangements for parking; thirdly, the effects of the proposed development in relation to flood risk; and fourthly, whether the proposed development makes acceptable contributions towards the provision of affordable housing in line with local and national policy.

Reasons

The Conservation Area

3. The appeal property sits within a thoroughfare with a mixed residential and commercial character fronting High Street. Identified by the Council as a Building of Townscape Merit, the principal part of the appeal building is of three storeys, considerably larger than its adjacent traditional properties, and due to this is prominent in the streetscene. A smaller side element of the appeal property is set back from its principal building line and set down from the main part of the roof. I saw that due to the appeal property's dominant scale within the block that its flank walls, roof and rear elevation were readily visible in gaps between buildings from School Lane and School Road.
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4. The Hampton Wick Conservation Area Study identifies High Street as the spine through the core of Hampton Wick, the continuous facades of which contribute to its character, and notes that the roofscape is enlivened by a considerable variation in eaves line, parapet and roof design. The detailing of the appeal property's roof including its flank walling, asymmetric pitch and the arrangement of its chimneys contributes considerably to the character of the street's roofscape.
5. The proposed development would extend the appeal building to the rear at first and second floor level, across its full width. The central element of the extension would be considerably deeper into the rear of the plot than the two smaller side elements. The extension would have a flat roof. Separate street access would be provided for the residential elements of the building.
6. I note that the proposed development would be a reduction in scale compared to a scheme that was subject to a previous appeal¹ at the site. However, the extent of the flat roofing employed and its interference with, and removal of significant elements of the building's characterful existing rear roof-slopes, including the prominent chimney stack, would be a dominant addition that would erode the character of the host dwelling to the detriment of its contribution to the wider townscape. Moreover, the depth, scale and massing of the proposed development would overwhelm the appeal property's rear aspect and plan form and read as a dominant and disproportionate addition, insensitive to the host building's character and appearance. As a result, the proposed development would be a discordant element in the context of its adjacent traditional buildings.
7. The neighbouring property, No 63, is a corner building of a contemporary style, the scale, massing and detailing of which contrast strongly with those of the traditional buildings in its surroundings. No 63 thus reads as something of a one off in terms of the streetscene, and does not provide a precedent for bulky extensions and alterations to adjacent properties that would be of harm to the character and appearance of their host buildings and the wider area.
8. The proposed development would undermine the character of the building, which would be of detriment to its townscape merit and its contribution to the significance of the conservation area. The impacts of the proposed development would be relatively localised in nature, and thus in the context of the conservation area as a whole would be of less than substantial harm to its significance. However, less than substantial harm does not indicate that less than substantial weight should be attached to the harm in the overall planning balance. The National Planning Policy Framework (the Framework) establishes that where such a level of harm would occur that "this harm should be weighed against the public benefits of the proposal including securing its optimum viable use".
9. Whilst I note that the rear elevation and some of the roof is in need of repair, I have been supplied with no substantive evidence to suggest that the proposed development is the only way of achieving these repairs. I am aware that renovations to the front façade are proposed, coupled with internal improvements of the appeal building. However, it has not been demonstrated that rear extensions would be necessary to secure these improvements. Neither has it been conclusively established that the proposed development

¹ APP/L5180/W/15/3134395

would secure the optimum viable use of the building. Thus I only attach limited weight to the public benefits that would flow from the development in this regard, and this would not demonstrably outweigh the considerable weight that I attach to the harm to the significance of the conservation area.

10. Accordingly, for these reasons the proposed development would not meet the requirements of the Framework. Moreover, I am mindful of my statutory duty arising from section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and find that the proposed development would not preserve or enhance the character or appearance of the conservation area. The proposed development would also run contrary to Policies 7.4 and 7.6 of *The London Plan-The Spatial Development Strategy for London: Consolidated with Alterations Since 2011* (the London Plan); Policy CP7 of the *Richmond upon Thames Core Strategy* (the Core Strategy); Policies DMDC1, DMHD1 and DMHD3 of the *Richmond upon Thames Development Management Plan* (the DM Plan); and the Council's Supplementary Planning Document *Small and Medium Housing Sites and Design Quality*. Amongst other things, and taken together, the policies and guidance seek to ensure that alterations and extensions to Buildings of Townscape Merit are based on an accurate understanding of their significance and respect the architectural character and detailing of the original buildings, and the character and appearance of their wider surroundings.

Parking

11. The proposed development makes no provision for off-street parking. The appeal building is adjacent to a Controlled Parking Zone operative between 0830 and 1830 on Mondays to Saturdays. Elsewhere in the environs of the appeal building on-street parking spaces are available for residential permit holders. At the time of my site visit, admittedly only a snapshot, I noted only one available residential parking space in the environs of the appeal site, and this was a bay marked out for disabled parking. The level of parking I observed was broadly consistent with that noted by the Inspector in the previous appeal, and thus I have no reason to conclude that what I saw was an unusually high level of parking.
12. In times when the Controlled Parking Zone is not in operation its bays could be available for occupants of the appeal scheme and the area more generally. Whilst I note that a restriction on the availability of parking permits for the occupants of the appeal scheme could reduce demand for residential parking spaces arising from it, I share the view of the previous Inspector that it would not reduce the demand for out of hours parking within the Controlled Parking Zone, although this would be to a more limited degree in this case due to the lower number of additional units proposed.
13. Whilst the appellant has supplied a parking survey that was produced for a planning application in relation to a different property in the area² (45A High Street), the survey took place during June 2013. Additional development in the environs of the appeal property since that date could have altered the demand for parking, and thus I consider that, due to its age, the parking survey is only of limited relevance in respect of the appeal scheme, and does not conclusively establish that there would be no adverse effect on parking as a result of the proposed development.

² Council ref 13/2390/FUL and 13/2391/LBC

14. Policy DMTP8 of the DM Plan establishes that development proposals are required to demonstrate that an appropriate level of off-street parking can be provided in line with the Council's standards, unless it can be demonstrated that there would be no adverse effect to on-street parking. The proposed development has failed to supply conclusive evidence in these regards, and as a result conflicts with Policy DMTP8.
15. The appellant has drawn my attention to a previous planning permission at No 63³. Whilst I note that a restriction on parking permits for occupants of the scheme was not considered necessary at that time, some 16 years have passed since the date of that permission. Since that date not only has national and local planning policy changed, but also cumulative development in the area could have changed the pattern and demand for parking considerably. Consequently, the parking arrangements of No 63 do not provide a precedent to be followed at the appeal site, and thus do not alter my conclusions in respect of the proposed development's conflict with Policy DMTP8.
16. No transport assessment has been provided in connection with the proposed development, and thus there would be a technical breach of Policy DMTP2 in this regard. However, I note from the officer report that a requirement in this regard is connected to the already consented ground floor element of the scheme⁴. Thus as the proposal before me only relates to additional residential units the requirement of a transport assessment would be excessive and thus unnecessary in this case.

Flood Risk

17. The appeal property is within Flood Zone 2. Consequently, both the Framework and Policy DMSD6 of the DM Plan require the submission of a flood risk assessment (FRA) with applications for development. Whilst an Environment Agency Product 4 Report accompanied the application, the application did not include a formal FRA, and as such conflicts with both the national and development plan policies in this regard.
18. I note that the previously consented scheme at the property included details of finished floor levels and indications of flood levels. However, that application related to the proposals for ground floor extension of a commercial use, which the Government's Planning Practice Guidance (PPG) makes clear is considered to be a use less vulnerable to flood risk. In contrast, the appeal scheme seeks to provide additional residential development which the PPG establishes is more vulnerable to the effects of flooding. As a result, and whilst mindful that the proposed development would be located at upper floors, the material submitted does not conclusively establish that appropriate resistance and resilience measures could be provided for the increased amount of residential occupiers of the appeal property.
19. The appellant supplied an example of FRA and related mitigation measures which were submitted with the consented scheme at 45A High Street. However, that scheme related to a conversion of an existing building rather than considerable extension as in the proposed development. Moreover, that consent predates the guidance given in the PPG in these regards. Consequently, I consider that the Council has not been inconsistent in its

³ 00/549/FUL

⁴ As approved under the terms of the permission Council ref: 16/0823/FUL

application of the relevant policies in this regard, or that the Council erred in not having regard to these proposed mitigation measures in connection to that previous case in its assessment of the merits of the appeal scheme. Consequently, the FRA submitted in connection with 45A High Street is only of limited relevance in respect of the current case.

20. Accordingly, as the application did not include an appropriately detailed FRA in respect of the scheme it would conflict with Policy DMSD6 of the DM Plan; Policy CP3 of the Core Strategy; and the Framework. Amongst other matters, and taken together, these policies seek to ensure that development takes account of the impacts of flood risk from the River Thames and its tributaries, and that development will be safe for its lifetime taking account of the vulnerability of its users.

Affordable Housing

21. Policy CP15 of the Core Strategy and DMHO6 of the DM Plan, taken together with the Council's Affordable Housing Supplementary Planning Guidance (the AH SPG) set out the local approach to securing affordable housing contributions from smaller sites. I have also been supplied with the Pre-publication Local Plan Policy LP36, which sets out the emerging policy in these regards, however, due to the stage of plan preparation I only attach limited weight to this consideration in the overall planning balance.
22. The proposed development makes no provision for affordable housing contributions and thus would conflict with the extant and emerging development plan policies in these regards. However, I am mindful of that the Minister for Housing and Planning issued a Written Ministerial Statement on 28 November 2014 (the WMS), and subsequent alterations to the PPG that outlined the circumstances when affordable housing contributions should not be sought from small-scale developments. The WMS states that "for sites of 10-units or less and which have a maximum combined gross floor space of 1,000 square metres, affordable housing contributions should not be sought". Whilst this policy was subject to a High Court challenge the Court of Appeal established its materiality as a consideration in relation to planning matters in a judgement issued on 11 May 2016⁵.
23. I am mindful of the local circumstances in the Borough, wherein a considerable proportion of housing is developed on smaller housing sites. However, whilst I am aware that the WMS does not alter the statutory status of the development plan, as it is the most up to date expression of national planning policy in relation to affordable housing contributions and is a clear and unambiguous statement of the relevant national thresholds, it is a consideration to which I attach very significant weight. Accordingly, in this instance, the policy expressed in the WMS outweighs the provisions of the development plan, and the emerging policies, as they relate to affordable housing.
24. Consequently, whilst the proposed development would conflict with the relevant development plan policies in terms of the provision of affordable housing, it would not be at variance with the national policy as expressed in the WMS. Accordingly, the proposed development's failure to provide affordable housing contributions would not constitute a reason to dismiss the appeal.

⁵ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA (Civ 441)

Conclusion

25. Whilst the proposed development's failure to make provision for affordable housing would not constitute a reason to dismiss the appeal, this is merely indicative of an absence of harm in this regard rather than a positive benefit of the scheme. It is thus demonstrably outweighed by the harm that the proposed development would cause to the character and appearance of its host building and the conservation area; the proposed development's failure to demonstrate that an appropriate level of parking could be achieved; and its conflict with development plan and national planning policy in terms of flood risk.
26. Consequently, I conclude, for the reasons given above, and having regard to all other matters raised, that the appeal should be dismissed.

G J Fort

INSPECTOR